



Sep 6 2006
2:21PM

DONGELL LAWRENCE FINNEY CLAYPOOL LLP
 RICHARD A. DONGELL (SBN 128083)
 PAUL D. RASMUSSEN (SBN 201680)
 707 Wilshire Boulevard, 45th Floor
 Los Angeles, CA 90017-3609
 Telephone: (213) 943-6100
 Facsimile: (213) 943-6101

Attorneys for Defendant and Cross-Defendant
 CRUCIBLE MATERIALS CORPORATION

SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF ORANGE

ORANGE COUNTY WATER DISTRICT,

Plaintiff,

v.

NORTHROP CORPORATION; NORTHROP
 GRUMMAN CORPORATION; AMERICAN
 ELECTRONICS, INC.; MAG AEROSPACE
 INDUSTRIES, INC.; GULTON INDUSTRIES,
 INC.; MARK IV INDUSTRIES, INC.; EDO
 CORPORATION; AEROJET-GENERAL
 CORPORATION; MOORE BUSINESS
 FORMS, INC.; AC PRODUCTS, INC.;
 FULLERTON MANUFACTURING
 COMPANY; FULLERTON BUSINESS PARK
 LLC; and DOES 1 through 400, inclusive,

Defendants.

AND RELATED CROSS ACTIONS.

Case No.: 04CC00715

Assigned to Hon. Thierry Colaw
 Department CX104

**CRUCIBLE MATERIALS
 CORPORATION'S VERIFIED ANSWER
 TO ORANGE COUNTY WATER
 DISTRICT'S FIRST AMENDED
 COMPLAINT**

Complaint Filed: December 17, 2004
 Trial Date: None

COMES NOW Defendant and Cross-Defendant Crucible Materials Corporation
 ("CRUCIBLE") providing the following Amended Answer to Plaintiff ORANGE COUNTY
 WATER DISTRICT's First Amended Complaint ("Complaint") as follows:

///

///

1 1. Paragraph 1 contains several statements of intent or legal conclusions and not
2 factual allegations. CRUCIBLE is not required to answer legal conclusions. To the extent the
3 paragraph contains allegations requiring a response from CRUCIBLE. CRUCIBLE is without
4 sufficient knowledge or information to form a belief as to the truth of the allegations, and on
5 that basis denies each and every allegation contained therein.

6 2. CRUCIBLE is without sufficient knowledge or information to form a belief as to
7 the truth of the allegations contained in this paragraph and on that basis denies each and every
8 allegation contained therein.

9 3. CRUCIBLE is without sufficient knowledge or information to form a belief as to
10 the truth of the allegations contained in this paragraph and on that basis denies each and every
11 allegation contained therein. Further, CRUCIBLE denies that it is responsible for any release
12 of contamination, including VOC'S or hazardous substances, into the environment or that it
13 committed any of the wrongful acts alleged against it in Plaintiff's First Amended Complaint.

14 4. Paragraph 4 contains several statements of intent or legal conclusions and not
15 factual allegations. CRUCIBLE is not required to answer legal conclusions. To the extent the
16 paragraph contains allegations requiring a response from CRUCIBLE. CRUCIBLE is without
17 sufficient knowledge or information to form a belief as to the truth of the allegations, and on
18 that basis denies each and every allegation contained therein.

19 5. Paragraph 5 contains several statements of intent or legal conclusions and not
20 factual allegations. CRUCIBLE is not required to answer legal conclusions. To the extent the
21 paragraph contains allegations requiring a response from CRUCIBLE. CRUCIBLE is without
22 sufficient knowledge or information to form a belief as to the truth of the allegations, and on
23 that basis denies each and every allegation contained therein.

24 6. Paragraph 6 contains several statements of intent or legal conclusions and not
25 factual allegations. CRUCIBLE is not required to answer legal conclusions. To the extent the
26 paragraph contains allegations requiring a response from CRUCIBLE. CRUCIBLE is without
27
28

1 sufficient knowledge or information to form a belief as to the truth of the allegations, and on
2 that basis denies each and every allegation contained therein.

3 7. Paragraph 7 sets forth definitions used throughout the First Amended Complaint
4 and legal conclusions to which CRUCIBLE is not required to answer and on that basis
5 CRUCIBLE denies each and every allegation contained therein.

6 8. CRUCIBLE is without sufficient knowledge or information to form a belief as to
7 the truth of the allegations contained in this paragraph, and on that basis denies each and every
8 allegation contained therein.

9 9. CRUCIBLE is without sufficient knowledge or information to form a belief as to
10 the truth of the allegations contained in this paragraph, and on that basis denies each and every
11 allegation contained therein.

12 10. CRUCIBLE is without sufficient knowledge or information to form a belief as to
13 the truth of the allegations contained in this paragraph, and on that basis denies each and every
14 allegation contained therein.

15 11. CRUCIBLE is without sufficient knowledge or information to form a belief as to
16 the truth of the allegations contained in this paragraph, and on that basis denies each and every
17 allegation contained therein.

18 12. CRUCIBLE is without sufficient knowledge or information to form a belief as to
19 the truth of the allegations contained in this paragraph, and on that basis denies each and every
20 allegation contained therein.

21 13. CRUCIBLE is without sufficient knowledge or information to form a belief as to
22 the truth of the allegations contained in this paragraph, and on that basis denies each and every
23 allegation contained therein.

24 14. CRUCIBLE is without sufficient knowledge or information to form a belief as to
25 the truth of the allegations contained in this paragraph, and on that basis denies each and every
26 allegation contained therein.

1 15. CRUCIBLE is without sufficient knowledge or information to form a belief as to
2 the truth of the allegations contained in this paragraph, and on that basis denies each and every
3 allegation contained therein.

4 16. CRUCIBLE is without sufficient knowledge or information to form a belief as to
5 the truth of the allegations contained in this paragraph, and on that basis denies each and every
6 allegation contained therein.

7 17. CRUCIBLE is without sufficient knowledge or information to form a belief as to
8 the truth of the allegations contained in this paragraph, and on that basis denies each and every
9 allegation contained therein.

10 18. CRUCIBLE is without sufficient knowledge or information to form a belief as to
11 the truth of the allegations contained in this paragraph, and on that basis denies each and every
12 allegation contained therein.

13 19. CRUCIBLE is without sufficient knowledge or information to form a belief as to
14 the truth of the allegations contained in this paragraph, and on that basis denies each and every
15 allegation contained therein.

16 20. CRUCIBLE is without sufficient knowledge or information to form a belief as to
17 the truth of the allegations contained in this paragraph, and on that basis denies each and every
18 allegation contained therein.

19 21. CRUCIBLE is without sufficient knowledge or information to form a belief as to
20 the truth of the allegations contained in this paragraph, and on that basis denies each and every
21 allegation contained therein.

22 22. CRUCIBLE is without sufficient knowledge or information to form a belief as to
23 the truth of the allegations contained in this paragraph, and on that basis denies each and every
24 allegation contained therein.

25 23. Paragraph 23 sets forth definitions used throughout the First Amended
26 Complaint, and legal conclusions to which CRUCIBLE is not required to respond, and on that
27 basis, CRUCIBLE denies each and every allegation contained therein. To the extent the
28

1 paragraph contains allegations requiring a response from CRUCIBLE, CRUCIBLE is without
2 sufficient knowledge or information to form a belief as to the truth of the allegation, and on that
3 basis denies each and every allegation contained therein.

4 24. CRUCIBLE is without sufficient knowledge or information to form a belief as to
5 the truth of the allegations contained in this paragraph, and on that basis denies each and every
6 allegation contained therein.

7 25. CRUCIBLE is without sufficient knowledge or information to form a belief as to
8 the truth of the allegations contained in this paragraph, and on that basis denies each and every
9 allegation contained therein.

10 26. Paragraph 26 sets forth legal conclusions to which CRUCIBLE is not required to
11 respond, and on that basis, CRUCIBLE denies each and every allegation contained therein. To
12 the extent the paragraph contains allegations requiring a response from CRUCIBLE,
13 CRUCIBLE is without sufficient knowledge or information to form a belief as to the truth of
14 the allegation, and on that basis denies each and every allegation contained therein.

15 27. CRUCIBLE denies each and every allegation against it contained in the first
16 sentence of this paragraph. CRUCIBLE is without sufficient knowledge or information to form
17 a belief as to the truth of the allegations contained in this paragraph relating to other defendants,
18 and on that basis denies each and every allegation contained therein. CRUCIBLE is without
19 sufficient knowledge or information to form a belief as to the truth of the allegations contained
20 in the remainder of this paragraph, and on that basis denies each and every allegation contained
21 therein.

22 28. Paragraph 28 sets forth legal conclusions to which CRUCIBLE is not required to
23 answer and on that basis CRUCIBLE denies each and every allegation contained therein.

24 **FIRST CAUSE OF ACTION**

25 **(Orange County Water District Act – Against All Defendants)**

26 29. CRUCIBLE incorporates by this reference, as though set forth in full, its
27 responses to paragraphs 1 through 28 above.

1 30. Paragraph 30 sets forth legal conclusions to which CRUCIBLE is not required to
2 respond, and on that basis, CRUCIBLE denies each and every allegation contained therein. To
3 the extent the paragraph contains allegations requiring a response from CRUCIBLE,
4 CRUCIBLE is without sufficient knowledge or information to form a belief as to the truth of
5 the allegation, and on that basis denies each and every allegation contained therein.

6 31. CRUCIBLE is without sufficient knowledge or information to form a belief as to
7 the truth of the allegations contained in this paragraph, and on that basis denies each and every
8 allegation contained therein.

9 32. CRUCIBLE is without sufficient knowledge or information to form a belief as to
10 the truth of the allegations contained in this paragraph, and on that basis denies each and every
11 allegation contained therein.

12 33. CRUCIBLE is without sufficient knowledge or information to form a belief as to
13 the truth of the allegations contained in this paragraph, and on that basis denies each and every
14 allegation contained therein.

15 34. Paragraph 34 sets forth legal conclusions to which CRUCIBLE is not required to
16 respond, and on that basis, CRUCIBLE denies each and every allegation contained therein. To
17 the extent the paragraph contains allegations requiring a response from CRUCIBLE,
18 CRUCIBLE is without sufficient knowledge or information to form a belief as to the truth of
19 the allegation, and on that basis denies each and every allegation contained therein.

20 35. CRUCIBLE denies each and every allegation against it contained in this
21 paragraph. CRUCIBLE is without sufficient knowledge or information to form a belief as to
22 the truth of the allegations contained in the reminder of this paragraph relating to other
23 defendants, and on that basis denies each and every allegation contained therein.

24 **SECOND CAUSE OF ACTION**

25 **(California Superfund Act – Against All Defendants)**

26 36. CRUCIBLE incorporates by this reference, as though set forth in full, its
27 responses to paragraphs 1 through 35 above.

1 37. Paragraph 37 sets forth legal conclusions to which CRUCIBLE is not required to
2 respond, and on that basis, CRUCIBLE denies each and every allegation contained therein. To
3 the extent the paragraph contains allegations requiring a response from CRUCIBLE,
4 CRUCIBLE is without sufficient knowledge or information to form a belief as to the truth of
5 the allegation, and on that basis denies each and every allegation contained therein.

6 38. Paragraph 38 sets forth legal conclusions to which CRUCIBLE is not required to
7 respond, and on that basis, CRUCIBLE denies each and every allegation contained therein. To
8 the extent the paragraph contains allegations requiring a response from CRUCIBLE,
9 CRUCIBLE is without sufficient knowledge or information to form a belief as to the truth of
10 the allegation, and on that basis denies each and every allegation contained therein.

11 39. Paragraph 39 sets forth legal conclusions to which CRUCIBLE is not required to
12 respond, and on that basis, CRUCIBLE denies each and every allegation contained therein. To
13 the extent the paragraph contains allegations requiring a response from CRUCIBLE,
14 CRUCIBLE is without sufficient knowledge or information to form a belief as to the truth of
15 the allegation, and on that basis denies each and every allegation contained therein.

16 40. CRUCIBLE denies that it is liable to the District for contribution and/or
17 indemnity for any response costs under California Health and Safety Code section 25368.
18 Further, paragraph 40 sets forth legal conclusions to which CRUCIBLE is not required to
19 respond, and on that basis, CRUCIBLE denies each and every allegation contained therein. To
20 the extent the paragraph contains allegations requiring a response from CRUCIBLE,
21 CRUCIBLE is without sufficient knowledge or information to form a belief as to the truth of
22 the allegation, and on that basis denies each and every allegation contained therein.

23 41. CRUCIBLE denies that it has caused or contributed to any environmental
24 contamination, which has migrated or continues to migrate from any site specified in the First
25 Amended Complaint. Further, paragraph 41 sets forth statements of intent to which
26 CRUCIBLE is not required to respond, and on that basis, CRUCIBLE denies each and every
27 allegation contained therein. To the extent the paragraph contains allegations requiring a
28

1 response from CRUCIBLE, CRUCIBLE is without sufficient knowledge or information to form
2 a belief as to the truth of the allegation, and on that basis denies each and every allegation
3 contained therein.

4 **THIRD CAUSE OF ACTION**

5 **(Negligence – Against All Defendants)**

6 42. CRUCIBLE incorporates by this reference, as though set forth in full, its
7 responses to paragraphs 1 through 41 above.

8 43. Paragraph 43 sets forth legal conclusions to which CRUCIBLE is not required to
9 respond, and on that basis, CRUCIBLE denies each and every allegation contained therein. To
10 the extent the paragraph contains allegations requiring a response from CRUCIBLE,
11 CRUCIBLE is without sufficient knowledge or information to form a belief as to the truth of
12 the allegation, and on that basis denies each and every allegation contained therein.

13 44. CRUCIBLE is without sufficient knowledge or information to form a belief as to
14 the truth of the allegations contained in this paragraph, and on that basis denies each and every
15 allegation contained therein.

16 45. CRUCIBLE is without sufficient knowledge or information to form a belief as to
17 the truth of the allegations contained in this paragraph, and on that basis denies each and every
18 allegation contained therein.

19 46. Paragraph 46 sets forth legal conclusions to which CRUCIBLE is not required to
20 respond, and on that basis, CRUCIBLE denies each and every allegation contained therein. To
21 the extent the paragraph contains allegations requiring a response from CRUCIBLE,
22 CRUCIBLE is without sufficient knowledge or information to form a belief as to the truth of
23 the allegation, and on that basis denies each and every allegation contained therein.

24 47. CRUCIBLE denies the truth of each and every allegation contained in this
25 paragraph.

26 48. CRUCIBLE denies the truth of each and every allegation contained in this
27 paragraph.
28

1 49. CRUCIBLE is without sufficient knowledge or information to form a belief as to
2 the truth of the allegations in this paragraph, and on that basis denies each and every allegation
3 contained therein.

4 50. CRUCIBLE denies the truth of each and every allegation contained in this
5 paragraph.

6 51. CRUCIBLE denies the truth of each and every allegation contained in this
7 paragraph.

8 **FOURTH CAUSE OF ACTION**

9 **(Nuisance – Against All Defendants)**

10 52. CRUCIBLE incorporates by this reference, as though set forth in full, its
11 responses to paragraphs 1 through 51 above.

12 53. Paragraph 53 sets forth legal conclusions to which CRUCIBLE is not required to
13 respond, and on that basis, CRUCIBLE denies each and every allegation contained therein. To
14 the extent the paragraph contains allegations requiring a response from CRUCIBLE,
15 CRUCIBLE is without sufficient knowledge or information to form a belief as to the truth of
16 the allegation, and on that basis denies each and every allegation contained therein.

17 54. CRUCIBLE denies the truth of each and every allegation contained in this
18 paragraph.

19 55. CRUCIBLE is without sufficient knowledge or information to form a belief as to
20 the truth of the allegations contained in this paragraph, and on that basis denies each and every
21 allegation contained therein.

22 56. CRUCIBLE is without sufficient knowledge or information to form a belief as to
23 the truth of the allegations contained in this paragraph, and on that basis denies each and every
24 allegation contained therein.

25 57. CRUCIBLE is without sufficient knowledge or information to form a belief as to
26 the truth of the allegations contained in this paragraph, and on that basis denies each and every
27 allegation contained therein.

1 58. CRUCIBLE is without sufficient knowledge or information to form a belief as to
2 the truth of the allegations contained in this paragraph, and on that basis denies each and every
3 allegation contained therein.

4 59. CRUCIBLE is without sufficient knowledge or information to form a belief as to
5 the truth of the allegations contained in this paragraph, and on that basis denies each and every
6 allegation contained therein.

7 60. CRUCIBLE is without sufficient knowledge or information to form a belief as to
8 the truth of the allegations contained in this paragraph, and on that basis denies each and every
9 allegation contained therein.

10 61. CRUCIBLE is without sufficient knowledge or information to form a belief as to
11 the truth of the allegations contained in this paragraph, and on that basis denies each and every
12 allegation contained therein.

13 **FIFTH CAUSE OF ACTION**

14 **(Trespass – Against All Defendants)**

15 62. CRUCIBLE incorporates by this reference, as though set forth in full, its
16 responses to paragraphs 1 through 61 above.

17 63. CRUCIBLE is without sufficient knowledge or information to form a belief as to
18 the truth of the allegations contained in this paragraph, and on that basis denies each and every
19 allegation contained therein.

20 64. CRUCIBLE is without sufficient knowledge or information to form a belief as to
21 the truth of the allegations contained in this paragraph, and on that basis denies each and every
22 allegation contained therein.

23 65. CRUCIBLE is without sufficient knowledge or information to form a belief as to
24 the truth of the allegations contained in this paragraph, and on that basis denies each and every
25 allegation contained therein.
26
27
28

66. CRUCIBLE is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in this paragraph, and on that basis denies each and every allegation contained therein.

67. CRUCIBLE is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in this paragraph, and on that basis denies each and every allegation contained therein.

SIXTH CAUSE OF ACTION

(Declaratory Relief – Against All Defendants)

68. CRUCIBLE incorporates by this reference, as though set forth in full, its responses to paragraphs 1 through 67 above.

69. CRUCIBLE denies the truth of each and every allegation contained in this paragraph against CRUCIBLE. CRUCIBLE is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in this paragraph, against other defendants, and on that basis denies each and every allegation contained therein.

70. CRUCIBLE denies the truth of each and every allegation contained in this paragraph against CRUCIBLE. CRUCIBLE is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in this paragraph, against other defendants, and on that basis denies each and every allegation contained therein.

71. CRUCIBLE is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in this paragraph, and on that basis denies each and every allegation contained therein.

72. CRUCIBLE admits that it has not reimbursed the District for any VOC-related investigation, remediation and/or cleanup costs in connection with this matter and that it denies any responsibility for any damages and/or expenses the District alleges it has incurred in the past or will incur in the future. CRUCIBLE is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in the remainder of this paragraph, and on that basis denies each and every allegation contained therein.

1 73. CRUCIBLE is without sufficient knowledge or information to form a belief as to
2 the truth of the allegations contained in this paragraph, and on that basis denies each and every
3 allegation contained therein.

4 74. CRUCIBLE is without sufficient knowledge or information to form a belief as to
5 the truth of the allegations contained in this paragraph, and on that basis denies each and every
6 allegation contained therein.

7 **AFFIRMATIVE DEFENSES**

8 As separate and affirmative defenses to each of the claims asserted in the Complaint,
9 Crucible alleges:

10 **FIRST AFFIRMATIVE DEFENSE**

11 **(Failure to State a Cause of Action)**

12 As a separate and additional defense, Crucible is informed and believes and thereon
13 avers the Complaint fails to state a claim against Crucible upon which relief can be granted.

14 **SECOND AFFIRMATIVE DEFENSE**

15 **(Statute of Limitations)**

16 As a separate and additional defense, Crucible is informed and believes and thereon
17 avers the Complaint, and each claim therein, is barred, in whole or in part, by the applicable
18 statutes of limitations.

19 **THIRD AFFIRMATIVE DEFENSE**

20 **(Laches)**

21 As a separate and additional defense, Crucible is informed and believes and thereon
22 avers the Complaint, and each claim therein, is barred, in whole or in part, by the doctrine of
23 laches.

24 ///

25 ///

26 ///

27 ///

1 **FOURTH AFFIRMATIVE DEFENSE**

2 **(Estoppel)**

3 As a separate and additional defense, Crucible is informed and believes and thereon
4 avers the Complaint, and each claim therein, is barred, in whole or in part, by the doctrine of
5 estoppel.

6 **FIFTH AFFIRMATIVE DEFENSE**

7 **(Release or Waiver)**

8 As a separate and additional defense, Crucible is informed and believes and thereon
9 avers the Complaint, and each claim therein, is barred, in whole or in part, by the doctrines of
10 express or implied release or waiver.

11 **SIXTH AFFIRMATIVE DEFENSE**

12 **(Unclean Hands)**

13 As a separate and additional defense, Crucible is informed and believes and thereon
14 avers the Complaint, and each claim therein, is barred, in whole or in part, by the doctrine of
15 unclean hands.

16 **SEVENTH AFFIRMATIVE DEFENSE**

17 **(Failure to Mitigate Damages)**

18 As a separate and additional defense, Crucible is informed and believes and thereon
19 avers the Complaint, and each claim therein, is barred, in whole or in part, by the
20 Complainant's failure to mitigate its alleged damages.

21 **EIGHTH AFFIRMATIVE DEFENSE**

22 **(Standing)**

23 As a separate and additional defense, Crucible is informed and believes and thereon
24 avers the Complaint, and each claim therein, is barred, in whole or in part, due to lack of
25 standing.

26 ///

27 ///

1 **FOURTEENTH AFFIRMATIVE DEFENSE**

2 **(Failure to Give Notice)**

3 As a separate and additional defense, Crucible is informed and believes and thereon
4 avers the Complaint, and each claim therein, is barred, in whole or in part, for Complainant's
5 failure to give proper notice to regulatory agencies as required by statute, including, but limited
6 to CERCLA § 113(1), 42 U.S.C. § 9613(1), and California Health and Safety Code § 25363(e).

7 **FIFTEENTH AFFIRMATIVE DEFENSE**

8 **(Cause)**

9 As a separate and additional defense, Crucible is informed and believes and thereon
10 avers that no act or omission of Crucible was the legal cause of any release, threatened release,
11 or of any injuries or costs for which damages or other relief is sought in the Complaint.

12 **SIXTEENTH AFFIRMATIVE DEFENSE**

13 **(Proximate Cause)**

14 As a separate and additional defense, Crucible is informed and believes and thereon
15 avers that no act or omission of Crucible was the proximate cause of any release, threatened
16 release, or of any injuries or costs for which damages or other relief is sought in the Complaint.

17 **SEVENTEENTH AFFIRMATIVE DEFENSE**

18 **(Independent, Intervening, and/or Superseding Cause)**

19 As a separate and additional defense, Crucible is informed and believes and thereon
20 avers that any act or omission of Crucible was not a substantial factor in bringing about
21 Complainant's alleged injuries and damages and was not a contributing cause thereof. If
22 Complainant sustained losses or damages, such losses or damages were the result of
23 independent, intervening, or superseding forces and/or actions or omissions of third parties over
24 which Crucible had no control and did not in any way participate in and for which Crucible is
25 not liable.

26 ///

27 ///

1 **EIGHTEENTH AFFIRMATIVE DEFENSE**

2 **(Lack of Legal Duty)**

3 As a separate and additional defense, Crucible is informed and believes and thereon
4 avers the Complaint, and each claim therein, in whole or in part, fails to state facts sufficient to
5 establish a legal duty on the part of Crucible.

6 **NINETEENTH AFFIRMATIVE DEFENSE**

7 **(Contributory or Comparative Fault)**

8 As a separate and additional defense, Crucible is informed and believes and thereon
9 avers the Complaint, and each claim therein, is barred, in whole or in part, by Complainant's
10 own contributory or comparative fault, and/or by the fault of other parties, and Complainant's
11 recovery should be reduced in proportion to such fault, including the fault of any other parties.

12 **TWENTIETH AFFIRMATIVE DEFENSE**

13 **(Contribution or Indemnity)**

14 As a separate and additional defense, Crucible is informed and believes and thereon
15 avers that Crucible is entitled, according to proof, to contribution or indemnity from
16 Complainant or any other third party whose negligence, fault or other conduct caused
17 Complainant's damages, if any, and such contribution or indemnity would offset or eliminate
18 any liability of Crucible.

19 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

20 **(CERCLA Defenses)**

21 As a separate and additional defense, Crucible is informed and believes and thereon
22 avers that Crucible is entitled to all CERCLA defenses as set forth in California Health and
23 Safety Code § 25323.5.

24 ///

25 ///

26 ///

27 ///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

[illegible]

7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18

5
6
7
8
9
10
11
12
13
14
15
16
17
18

9
10
11
12
13
14
15
16
17
18

20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8

26
27
28

27
28

1 **TWENTY-SIXTH AFFIRMATIVE DEFENSE**

2 **(Offset)**

3 As a separate and additional defense, Crucible is informed and believes and thereon
4 avers the Complaint, and each claim therein, in whole or in part, is subject to an offset.

5 **TWENTY-SEVENTH AFFIRMATIVE DEFENSE**

6 **(Unjust Enrichment)**

7 As a separate and additional defense, Crucible is informed and believes and thereon
8 avers that Complainant would be unjustly enriched if it received the relief, including the
9 equitable relief, prayed for in the Complaint.

10 **TWENTY-EIGHTH AFFIRMATIVE DEFENSE**

11 **(Equitable Allocation)**

12 As a separate and additional defense, Crucible is informed and believes and thereon
13 avers that Crucible is not liable for any other person's fair, equitable, and/or proportionate share
14 of any relief to which Complainant may be entitled.

15 **TWENTY-NINTH AFFIRMATIVE DEFENSE**

16 **(De Minimis)**

17 As a separate and additional defense, Crucible is informed and believes and thereon
18 avers that if any hazardous substances from Crucible were or are present, which Crucible
19 denies, then the amount of, and/or the harm of relief attributable to, such hazardous substances
20 is *de minimis*.

21 **THIRTIETH AFFIRMATIVE DEFENSE**

22 **(Divisibility of Harm)**

23 As a separate and additional defense, Crucible is informed and believes and thereon
24 avers that Crucible is not liable, jointly and severally or otherwise, for any releases, harms, or
25 costs that are divisible from any releases, harms, or costs allegedly attributable to Crucible.

26 ///

27 ///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7

3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6

6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7

7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7

8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

4
5
6
7
8
9
10
11
12
13
14
15
16

9
10
11
12
13
14
15
16
17

20
21
22
23
24
25
26
27

21
22
23
24
25
26

26

27

1 **THIRTY-FIFTH AFFIRMATIVE DEFENSE**

2 **(Compliance with Laws)**

3 As a separate and additional defense, Crucible is informed and believes and thereon
4 avers that Crucible is not liable to Complainant because Crucible acted reasonably and with due
5 care and complied, or substantially complied with all applicable statutes, regulations,
6 ordinances, and/or other laws.

7 **THIRTY-SIXTH AFFIRMATIVE DEFENSE**

8 **(Justified Conduct)**

9 As a separate and additional defense, Crucible is informed and believes and thereon
10 avers that Crucible is not liable to Complainant because Crucible's conduct was justified and
11 permissible.

12 **THIRTY-SEVENTH AFFIRMATIVE DEFENSE**

13 **(Punitive Damages Improper)**

14 As a separate and additional defense, Crucible is informed and believes and thereon
15 avers the Complaint alleges no facts, and Crucible has not engaged in any conduct, that entitles
16 Complainant to an award of punitive damages.

17 **THIRTY-EIGHTH AFFIRMATIVE DEFENSE**

18 **(Invalidity of Groundwater Project)**

19 Defendant is informed and believes that on or about November 16, 2005, Plaintiff's
20 Board of Directors approved a costly remedial plan called the North Basin Groundwater
21 Protection Project (the "Groundwater Cleanup Project"), and that Plaintiff seeks in this action to
22 recover all of the costs associated with implementing the Groundwater Cleanup Project from
23 Defendant and the other defendants. Defendant is further informed and believes that Plaintiff's
24 approval of the Groundwater Cleanup Project is invalid procedurally and substantively because,
25 among other things, Plaintiff (1) failed to provide adequate notice of Plaintiff's consideration of
26 the Groundwater Cleanup Project to Defendant and the other defendants, (2) failed to permit
27 Defendant and the other defendants to provide comments on the Groundwater Cleanup Project,
28

1 (3) failed to consider all chemicals present in the groundwater and their likely sources, (4)
2 failed to consider more cost-effective and feasible alternatives to the Groundwater Cleanup
3 Project, (5) failed to evaluate the location and depths of extraction wells, and (6) failed to
4 evaluate recharge of the treated water.

5 **THIRTY-NINTH AFFIRMATIVE DEFENSE**

6 **(Reservation of Rights)**

7 The Complaint does not describe its claims or events with sufficient particularity to
8 allow Crucible to ascertain what other affirmative defenses may exist, and Crucible therefore
9 reserves the right to assert all affirmative defenses which may pertain to the Complaint once the
10 precise nature of the claims is ascertained. Crucible further reserves the right to assert all other
11 defenses that arise in discovery, trial, or otherwise.

12 **FORTIETH AFFIRMATIVE DEFENSE**

13 **(Reliance upon Other Parties' Defenses)**

14 All affirmative defenses raised by any other party, to the extent applicable to Crucible,
15 are incorporated by reference as if fully set forth herein.

16
17 WHEREFORE, Crucible prays for judgment as follows:

- 18 1. That the Complaint be dismissed with prejudice;
19 2. That Complainant take nothing by reason of the Complaint;
20 3. That Crucible recover its attorneys' fees, costs, and litigation expenses; and
21 4. For such other and further relief as this Court deems just and proper.

22
23 DATED: September 6, 2006

DONGELL LAWRENCE FINNEY CLAYPOOL LLP

24
25
26 By 

Paul D. Rasmussen

Attorneys for Defendant and Cross-Defendant
CRUCIBLE MATERIALS CORPORATION

VERIFICATION TO FOLLOW

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE VIA LEXISNEXIS FILE AND SERVE

I, Francine Alicia-Marie Solis, declare as follows:

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 707 Wilshire Boulevard, 45th Floor, Los Angeles, California 90017, in said County and State.

On September 6, 2006, I served the following document(s):

**CRUCIBLE MATERIALS CORPORATION'S VERIFIED ANSWER TO
ORANGE COUNTY WATER DISTRICT'S FIRST AMENDED COMPLAINT**

on all parties, by posting it directly on the LexisNexis File & Serve website, at
<http://www.lexisnexis.com/fileandserve/>.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 6th day of September, 2006, at Los Angeles, California.


Francine Alicia-Marie Solis